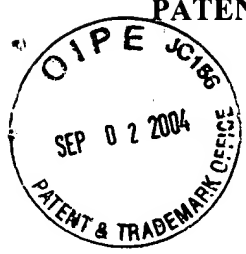


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Himanshu S. Amin

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Applicant(s): Gregory L. Meredith, *et al.*

Examiner: Beth Van Doren

Serial No: 09/620,771

Art Unit: 3623

Filing Date: July 21, 2000

Title: LONG RUNNING TRANSACTION INTEGRATION WITH SELECTIVE DEHYDRATION AND SELECTIVE COMPENSATION

Mail Stop Appeal Brief-Patents  
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**APPEAL BRIEF**

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Dear Sir:

Applicants' representative submits this brief in triplicate in connection with an appeal of the above-identified patent application. A credit card payment form is filed concurrently herewith in connection with all fees due regarding this brief. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [MSFTP105USA].

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**I. Real Party in Interest (37 C.F.R. §1.192(c)(1))**

The real party in interest in the present appeal is Microsoft Corporation, the assignee of the present application.

**II. Related Appeals and Interferences (37 C.F.R. §1.192(c)(2))**

Appellants, appellants' legal representatives, and/or the assignee of the present application are not aware of any appeals or interferences which will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**III. Status of Claims (37 C.F.R. §1.192(c)(3))**

Claims 1-52 are pending in the subject application. The rejection of claims 1-52 is appealed.

**IV. Status of Amendments (37 C.F.R. §1.192(c)(4))**

No claim amendments have been entered subsequent the Final Office Action.

**V. Summary of Invention (37 C.F.R. §1.192(c)(5))**

The claimed invention generally relates to methods that process/execute actions within a transaction(s) of a schedule(s). Such methods include initiating an action of a schedule, comparing a latency attribute of the action with a latency threshold, and selectively storing (dehydrating) a schedule state to a storage medium based on the comparison. (p.10, ll.21-23 and p.10, l.30 – p.11, l.2). In addition, the methods include recognizing a transaction boundary or determining an action and/or transaction state, and selectively compensating the action or transaction according to a compensation parameter associated with the action or transaction and based on a failure or abort of another action or transaction within the schedule. (p.4, ll.25-30).

**VI. Statement of the Issues (37 C.F.R. §1.192(c)(6))**

A. Whether claims 1-5, 7-15, 17-23, 25-36, 38-43, and 45-52 are unpatentable under 35 U.S.C. §102(b) as being anticipated by Srinivasan (U.S. 5,548,506).

B. Whether claims 6, 16, 24, 37, and 44 are unpatentable under 35 U.S.C. §103(a) over Srinivasan (U.S. 5,548,506).

**VII. Grouping of Claims (37 C.F.R. §1.192(c)(7))**

For the purposes of this appeal only, the claims are grouped as follows:

Claims 1-39; claims 40-50; and claim 51-52, respectively, stand or fall together.

**VIII. Argument (37 C.F.R. §1.192(c)(8))****A. Rejection of Claims 1-5, 7-15, 17-23, 25-36, 38-43, and 45-52 Under 35 U.S.C. §102(b)**

Claims 1-5, 7-15, 17-23, 25-36, 38-43, and 45-52 stand rejected under 35 U.S.C. §102(b) as being anticipated by Srinivasan (U.S. 5,548,506). Withdrawal of this rejection is respectfully requested for at least the following reasons. Srinivasan does not teach or suggest each and every element as set forth in the subject claims.

***i. Applicable law***

A single prior art reference anticipates a patent claim only if it expressly or inherently describes each and every limitation set forth in the patent claim. *Trintec Industries, Inc., v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 U.S.P.Q.2D 1597 (Fed. Cir. 2002). (Emphasis added). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

***ii. Srinivasan does not teach or suggest initiating a schedule and comparing a latency attribute of an action of the schedule with a latency threshold, wherein data associated with the schedule is selectively stored based on the comparison as recited in claims 1-5, 7-15, 17-23, 25-36, and 38-39; thus, Srinivasan does not anticipate the subject claims.***

Independent claims 1, 11, 30 and 32 recite *initiating a schedule* action, wherein *a latency attribute* of the action is *compared* with *a latency threshold* and data associated with the schedule is *selectively stored* based on the comparison. The Examiner asserts “there is no recitation in the body of the claim that links the action and the latency attribute/latency threshold comparison” and “even if the preamble of the claim was treated as a limitation of the claim, the preamble does not sufficiently link the action and latency attribute.” The Examiner further states

“the latency attribute would just be associated with the schedule.” Applicants’ respectfully disagree. In particular, independent claims 30 and 32 explicitly recite in the body of the claims that the latency attribute is associated with the action. For example, claim 30 recites “comparing a latency attribute associated with the action” and claim 32 recites “initiating an action having a latency attribute.” Independent claims 1 and 11 recite such limitations in the preamble. For example, claim 1 recites “an action ... having a latency attribute” and claim 11 recites “the action having a latency attribute.” Although, in general, the specification does not impart limitations on a claim, “if the claim preamble ... is ‘necessary to give life, meaning, and vitality’ to the claim, then the claim preamble should be construed as if in the balance of the claim.” See *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999). Since the preambles of claims 1 and 11 are necessary to denote that the latency attribute is a latency attribute of the action, the preambles give life, meaning, and vitality to the claims and should be construed as if in the balance of the claims. However, even without such claim interpretation, the latency attribute as recited in claims 1 and 11 should be considered a latency attribute of the action, as explicitly recited in the body of claims 30 and 32, since “a claim term should be construed consistently with its appearance ... in other claims in the same patent.” (See *Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342, 60 USPQ2d 1851 (Fed. Cir. 2001). Thus, the Examiner is incorrect in asserting the latency attribute recited in claims 1, 11, 30 and 32 does not sufficiently link the action and the latency attribute; the latency attribute is a latency attribute of the action.

The Examiner further contends that Srinivasan teaches an action latency attribute as recited in the claimed invention and states the task start and end times taught by Srinivasan are task time attributes that are compared with a task threshold to determine the status of the task and if reminders should be sent. The Examiner adds “while the attribute indicates that a task is not completed, reminders are sent at predetermined times (thresholds) to both remind users of the existence of the task and gather information about the task” and references column 3, lines 5-18, column 5, lines 45-58, column 6, lines 3-15, and column 7, lines 15-21 and lines 55-61 of Srinivasan as support. However, these sections of Srinivasan do not teach or suggest these claimed aspects. In particular, the task start and end times taught in Srinivasan are not latency attributes. Latency, as defined in the Merriam-Webster Online Dictionary, means “present and capable of becoming though not now ... active.” (See <http://www.merriam-webster.com/cgi->

bin/dictionary?book=Dictionary&va=latent). Thus, a latency attribute is associated with a dormant period that becomes active, not a start and end time that define a duration of an active period. In addition, although the Examiner relies on start and end times to teach the claimed invention, Srinivasan does not disclose such start and end times. Rather, Srinivasan, at column 3, lines 5-18, column 5, lines 45-51, and column 7, lines 15-21 and 55-61, discloses start and finish *dates*, such as week-ends and holidays (*not times*) and, at column 6, lines 3-15, does not even contemplate dates. Since these sections of Srinivasan do not disclose latency attributes, as recited in the subject claims, they cannot disclose a comparison between a latency attribute and a latency threshold. Moreover, the Examiner states that reminders are sent at predetermined thresholds. It is unclear whether the Examiner associates such predetermined thresholds with a latency threshold, but, regardless, these predetermined thresholds are utilized as triggers to send reminders and not a latency threshold compared with a latency attribute as recited in the subject claims.

The Examiner further asserts Srinivasan discloses initiating an action of a schedule and selectively storing data associated with the schedule based on a latency comparison as recited in the subject claims. However, Srinivasan does not teach or suggest such aspects of the claimed invention. Instead, Srinivasan simply discloses continuous auto monitoring of project tasks, including building a project task database, computing start and end dates, updating tasks, re-allocating task resources, generating reports, and sending reminders.

*iii. Srinivasan does not teach or suggest selectively compensating a first action within a schedule based on the transaction boundary and a compensating parameter related to abortion of a second action as recited in claims 40-43 and 45-50; thus, Srinivasan does not anticipate the subject claims.*

Independent claims 40 and 46 recite *recognizing a transaction boundary* and selectively *compensating a first action* within a schedule *based on the transaction boundary and a compensating parameter based on an abortion of a second action*. Srinivasan does not describe, teach or suggest such claimed limitations. As noted *supra*, Srinivasan discloses a system that automates project task management for organizational work-group team members. Such system, as disclosed, does not recognize transaction boundaries or compensate actions of schedules based at least upon aborted actions of schedules, as recited in the subject claims.

The Examiner asserts that Srinivasan teaches, “compensating a first action based upon abortion of a second action” and states the “first action is compensated when a second action ends by updating the time element for the first action, the cost of the first action, etc. in order to ensure that the overall project ends in time on budget, *etc.*” The Examiner references various sections of Srinivasan to support this assertion, but the referenced sections of Srinivasan do not teach the subject claims. Instead, these sections of Srinivasan are drawn to re-allocating resources across project tasks according to priorities, re-computing project task end dates, re-creating the project database, and informing project group members of project inter-dependencies. In addition, the Examiner’s utilization of the term “abort” is not consonant with the plain meaning of the term “abort.” For example, the Examiner states an abortion occurs “when a second action ends.” (See Final Office Action, p.4, ¶2). However, the dictionary definition of “abort” is “to terminate prematurely” or “to stop in the early stages” (See <http://www.meriam-webster.com>) and Srinivasan does not contemplate ***premature or early termination*** of an action of a schedule, for example, prior to an action of a schedule completing execution. Moreover, Srinivasan is silent regarding recognizing transaction boundaries and utilizing such boundaries to facilitate selectively compensating the first action within a schedule based on a compensating parameter related to an abortion of a second action within a schedule.

- iv. Srinivasan does not teach or suggest compensating an operation when a state of the action and a state of a transaction are related and have aborted as recited in claims 51 and 52; thus, Srinivasan does not anticipate the subject claims.***

Independent claims 51 and 52 recite determining action and transaction states and a relationship between the action and transaction based on a transaction boundary and compensating an operation when the states of the action and transaction are related and have aborted. As discussed *supra*, Srinivasan is not concerned with and does not teach methods relating to actions of schedules, transaction boundaries between actions and transactions, or selectively compensating such actions based on aborted actions of schedules. Thus, it appears the Examiner in order to make Srinivasan fit is attempting to define/add limitations to the claimed invention and utilizes arbitrary references to disparate sections of Srinivasan taken out of context rather than provide art that discloses each and every element as recited in the subject

claims. For example, the Examiner incorrectly defines the term “task” as taught by Srinivasan to be synonymous with an action of a schedule as recited in the subject claims and the term “operation” as taught by Srinivasan to be synonymous with a transaction of a schedule as recited in the subject claims although there is no support for either within Srinivasan. As noted *supra*, Srinivasan simply discloses a system that automates project management for organizational work-group team members and does not recognize transaction boundaries or compensate actions of schedules based on aborted actions of schedules, as recited in the subject claims.

**B. Rejection of Claims 6, 16, 24, 37, and 44 Under 35 U.S.C. §103(a)**

Claims 6, 16, 24, 37, and 44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Srinivasan (U.S. 5,548,506). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Claims 6, 16 and 24, 37, and 44 depend from independent claims 1, 11, 32 and 40, respectively, and by virtue of their dependency, these claims contain all the limitations of their respective base claims and, therefore, are allowable for the reasons discussed *supra*.

**IX. Conclusion**

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited references. Accordingly, it is respectfully requested that the rejections of claims 1-52 be reversed.

Respectfully submitted,

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**X. Appendix of Claims (37 C.F.R. §1.192(c)(9))**

1. (Original) A method of processing an action within a schedule and having a latency attribute associated therewith, comprising:
  - initiating the action;
  - comparing the latency attribute with a latency threshold; and
  - selectively storing data associated with a schedule in a storage medium based on the latency comparison.
2. (Original) The method of claim 1, further comprising creating an association between the stored data and a signal.
3. (Original) The method of claim 2, further comprising suspending execution of the schedule based on the latency comparison.
4. (Original) The method of claim 3, further comprising selectively de-allocating resources associated with the schedule after suspending execution of the schedule.
5. (Original) The method of claim 3, further comprising selectively resuming execution of the schedule based on the signal.
6. (Original) The method of claim 4, further comprising selectively allocating computer system resources for execution of the schedule based on the signal, and selectively resuming execution of the schedule based on the signal.
7. (Original) The method of claim 1, further comprising adjusting the latency attribute according to a variable.
8. (Original) The method of claim 7, wherein the variable is related to the actual latency for completion of the action.
9. (Original) The method of claim 1, wherein the data comprises schedule state information.

10. (Original) The method of claim 1, further comprising adjusting the latency threshold based on a variable.
11. (Original) A method of executing a schedule, the schedule comprising a schedule state, at least one transaction having an action associated therewith, the action having a latency attribute associated therewith, the method comprising:
  - initiating the action according to the schedule;
  - comparing the latency attribute with a latency threshold; and
  - selectively storing the schedule state in a storage medium based on the latency comparison.
12. (Original) The method of claim 11, further comprising creating an association between the stored schedule state and a signal.
13. (Original) The method of claim 12, further comprising suspending execution of the schedule based on the latency comparison.
14. (Original) The method of claim 13, further comprising selectively de-allocating resources associated with the schedule after storing the schedule state in the storage medium.
15. (Original) The method of claim 13, further comprising selectively resuming execution of the schedule based on the signal.
16. (Original) The method of claim 15, further comprising selectively allocating computer system resources for execution of the schedule based on the signal, and selectively resuming execution of the schedule based on the signal.
17. (Original) The method of claim 11, wherein the schedule includes a plurality of actions and at least one of the actions has an associated latency attribute.

18. (Original) The method of claim 17, wherein the latency attribute represents an estimated latency for completion of the associated action.
19. (Original) The method of claim 17, further comprising adjusting at least one of the latency attributes according to a variable.
20. (Original) The method of claim 19, wherein the variable is related to an actual latency for completion of the associated action.
21. (Original) The method of claim 17, wherein the latency attributes have a class associated therewith, and wherein the class indicates a grouping of actions.
22. (Original) The method of claim 21, further comprising providing a plurality of latency thresholds, wherein each latency threshold has a class associated therewith, and selectively comparing a latency attribute with a latency threshold having the same class upon initiating the action associated with the latency attribute.
23. (Original) The method of claim 22, further comprising adjusting at least one of the latency thresholds based on a variable.
24. (Original) The method of claim 23, wherein the variable is related to system resource utilization.
25. (Original) The method of claim 11, further comprising adjusting the latency threshold based on a variable.
26. (Original) The method of claim 11, further comprising selectively storing the schedule state in a database schema based on the latency comparison.
27. (Original) The method of claim 11, wherein the schedule state comprises a schedule location and active data.

28. (Original) The method of claim 11, wherein the action has a compensation parameter associated therewith, further comprising selectively compensating the action based on the compensation parameter, a transaction boundary within the schedule, and a state associated with another action within the schedule.

29. (Original) The method of claim 11, further comprising selectively compensating a first action according to a transaction boundary within the schedule and a compensation parameter associated with the first action, based on abortion of a second action within the schedule.

30. (Original) A method of executing a schedule, the schedule comprising a schedule state, at least one transaction with an action associated therewith, the method comprising:

- initializing an action within the schedule;
- comparing a latency attribute associated with the action and a latency threshold;
- executing the action if the latency attribute does not exceed the latency threshold; and
- dehydrating the schedule if the latency attribute exceeds the latency threshold.

31. (Original) The method of claim 30, wherein dehydrating the schedule further comprises storing the schedule state to a storage medium, creating a proxy between the stored schedule state and a message, suspending execution of the schedule pending the expected action, and restoring the schedule and resuming execution of the schedule based on receipt of the message.

32. (Original) A computer-readable medium having computer-executable instructions for:

- initiating an action having a latency attribute associated therewith;
- comparing the latency attribute with a latency threshold; and
- storing data associated with a schedule in a storage medium based on the latency comparison.

33. (Original) The computer-readable medium of claim 32, having further computer-executable instructions for creating an association between the stored data and a signal.

34. (Original) The computer-readable medium of claim 33, having further computer-executable instructions for suspending execution of the schedule based on the latency comparison.
35. (Original) The computer-readable medium of claim 34, having further computer-executable instructions for selectively de-allocating resources associated with the schedule after suspending execution of the schedule.
36. (Original) The computer-readable medium of claim 34, having further computer-executable instructions for selectively resuming execution of the schedule based on the signal.
37. (Original) The computer-readable medium of claim 35, having further computer-executable instructions for selectively allocating resources to execution of the schedule based on the signal, and selectively resuming execution of the schedule based on the signal.
38. (Original) The computer-readable medium of claim 32, wherein the action further has a compensation parameter associated therewith, having further computer-executable instructions for selectively compensating the action based on the compensation parameter, a transaction boundary within the schedule, and a state associated with another action within the schedule.
39. (Original) The computer-readable medium of claim 32, having further computer-executable instructions for selectively compensating a first action according to a transaction boundary within the schedule and a compensation parameter associated with the first action, based on abortion of a second action within the schedule.
40. (Previously presented) A method of executing a transaction having an associated transaction boundary and an action, wherein the action has an action state and a compensation parameter associated therewith, the method comprising:
- recognizing a transaction boundary associated with the transaction; and
  - selectively compensating at least a first action according to the transaction boundary and the compensation parameter based on abortion of a second action.

41. (Canceled)
42. (Previously presented) The method of claim 40, further comprising selectively compensating at least a first action according to the transaction boundary and the compensation parameter upon abortion of a second action, and further according to the action state associated with the first action.
43. (Original) The method of claim 42, further comprising selectively compensating at least a first action according to the transaction boundary and the compensation parameter upon abortion of a second action, if the first action has committed.
44. (Original) The method of claim 43, wherein the compensation step further comprises instantiating at least one object.
45. (Original) The method of claim 43, wherein the compensation step further comprises sending a message.
46. (Previously presented) A computer-readable medium having computer-executable instructions for:
- executing a schedule, the schedule comprising a schedule state, at least one action, and at least one transaction with an associated transaction boundary, the action including an action state and a compensation parameter associated therewith;
  - recognizing the transaction boundary within the schedule; and
  - selectively compensating at least a first action within the schedule according to a transaction boundary within the schedule, and a compensation parameter associated with the first action based on abortion of a second action.
47. (Canceled)

48. (Previously presented) The computer-readable medium of claim 46, having further computer-executable instructions for selectively compensating the at least a first action according to the transaction boundary and a compensation parameter associated with the first action upon abortion of a second action, and further according to the action state associated with the first action.

49. (Original) The computer-readable medium of claim 48, having further computer-executable instructions for selectively compensating the at least a first action according to the transaction boundary and the compensation parameter associated with the first action upon abortion of a second action, if the first action has committed.

50. (Original) The computer-readable medium of claim 46, wherein the at least one action includes a latency attribute, and having further computer-executable instructions for selectively storing the schedule state to a storage medium based on a comparison of the latency attribute with a latency threshold.

51. (Original) In the execution of a schedule in a computer system, the schedule comprising a schedule state, an action with an associated action state, and at least one transaction with a transaction boundary, a compensation parameter, a compensation routine, and a transaction state associated therewith, a method of selectively compensating the transaction during the execution of a schedule, comprising:

- determining the action state of an action;

- if the action state is aborted, determining the relationship of the action and the transaction based on a transaction boundary;

- if the action state is aborted, and if the action and transaction are related according to the transaction boundary, determining the transaction state of the transaction; and

- if the action state is aborted, and if the action and the transaction are related according to the transaction boundary, and if the transaction state is committed, performing an operation according to the compensation routine associated with the transaction.

52. (Original) In the execution of a schedule in a computer system, the schedule comprising a schedule state, first and second transactions with a associated transaction boundaries, transaction states, compensation parameters, and compensation routines, and first and second actions with a associated action states, compensation parameters, and compensation routines, a method of selectively compensating a first action or transaction during the execution of a schedule, comprising:

- determining the state of one of the second action and the second transaction;

- if the state of one of the second action and second transaction is aborted, determining the relationship of the first action and transaction with the second action and transaction based on the transaction boundary;

- if the state of one of the second action and second transaction is aborted, and if one of the first action and transaction are related to one of the second action and transaction according to the transaction boundary, determining the state of one of the first action and transaction; and
- if the state of one of the second action and second transaction is aborted, and if one of the first action and transaction are related to one of the second action and transaction according to the transaction boundary, and if the state of one of the first action and transaction is committed, performing an operation according to the compensation routine associated with one of the first action and transaction.